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5 In re Application of BAYER
6 HEALTHCARE LLC, Petitioner, For an
7 Order Pursuant to 28 U.S.C. 1782 to Take
8 Discovery for Use in Foreign Proceedings,
9 Pursuant to the Federal Rules of Civil
10 Procedure of Respondent Nektar
11 Therapeutics

No. C 14-80138 WHA

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14 **ORDER RE PENDING**
15 **DISCOVERY MOTIONS**

16 In this miscellaneous discovery matter, on May 29, Nektar Therapeutics filed a motion to
17 quash, noticed for July 10, 2014 (Dkt. No. 13). In the alternative, Nektar requests “that the
18 Court stay discovery until after the German court holds its preliminary hearing on July 9, 2014.”
19 Nektar argues that “any discovery ordered should be reciprocal and governed by a protective
order to be negotiated by counsel for Bayer and Nektar.” The papers did not address whether the
parties met and conferred.

20 On June 12, Bayer Healthcare LLC filed an opposition and cross motion to compel,
21 noticed for July 17, 2014 (Dkt. No. 15). Bayer argues that Nektar should be compelled to
22 comply with the subpoena and discovery should not wait until after the July 9, hearing in
23 Germany. Bayer states that it “is willing to provide discovery in response to a commensurately
24 narrowly-tailored subpoena, and is certain the parties can meet and confer to address any
25 objections to the scope of Nektar’s discovery requests.” Bayer “will willingly work with Nektar
26 to craft a mutually-agreeable Protective Order.” Bayer’s papers did not address whether the
27 parties met and conferred regarding the subpoena at issue in the instant cross motions.
28 The subpoena has eleven deposition topics and 21 requests for production.

1 Accordingly, this order finds as follows:

2 1. By **NOON ON JUNE 30**, lead counsel from Bayer and Nektar shall file a joint
3 statement certifying that they have met and conferred **IN PERSON (IN THIS DISTRICT)** in a
4 good-faith effort to resolve their discovery dispute. The statement should state when, where, and
5 for how long lead counsel conferred. For each unresolved dispute, counsel shall identify:
6 (a) the text of the request for production or deposition topic; (b) Bayer's proposal (and
7 authorities); and (c) Nektar's proposal (and authorities). The statement shall also state the
8 agreements reached and append a proposed protective order. This joint statement shall constitute
9 the parties' reply briefs. No additional reply briefs, please.

10 2. The hearings are hereby consolidated; both motions shall be heard on

11 **JULY 17, 2014, AT 8:00 A.M.**

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13 **IT IS SO ORDERED.**

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15 Dated: June 16, 2014.

16 
17 **WILLIAM ALSUP**
18 **UNITED STATES DISTRICT JUDGE**